

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 23-61007-CIV-SMITH**

GUCCI AMERICA, INC.,

Plaintiff,

vs.

THE INDIVIDUALS, BUSINESS ENTITIES,
AND UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A”,

Defendants.

_____ /

**DECLARATION OF SYDNEY KIPEN IN SUPPORT OF
PLAINTIFF’S *EX PARTE* APPLICATION FOR ENTRY OF TEMPORARY
RESTRAINING ORDER, PRELIMINARY INJUNCTION, AND
ORDER RESTRAINING TRANSFER OF ASSETS**

I, Sydney Kipen, state and declare as follows:

1. I am over 18 years of age and have personal knowledge of the facts set forth herein. I make this Declaration, which is filed in support of Plaintiff’s *Ex Parte* Application for Entry of Temporary Restraining Order, Preliminary Injunction, and Order Restraining Transfer of Assets (the “Application for Temporary Restraining Order”) against Defendants, the Individuals, Business Entities, and Unincorporated Associations identified on Schedule “A” hereto (“Defendants”). If called upon to do so, I could and would testify competently to the following facts set forth herein.


2. I am employed by Plaintiff, Gucci America, Inc. (“Gucci”) as Intellectual Property Counsel. Gucci is a corporation duly organized under the laws of the State of New York with its principal place of business in the United States located at 195 Broadway, 12th Floor, New York, New York 10007.


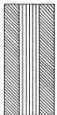



3. In my capacity as Intellectual Property Counsel at Gucci, I am responsible, in part, for Gucci's trademark and anti-counterfeiting efforts in the United States. As a result, I am fully familiar with most aspects of the manufacture, sale, and distribution of genuine Gucci products, and I have the ability to identify the distinctions between genuine Gucci merchandise and counterfeit copies of the same.







Gucci's Trademark Rights



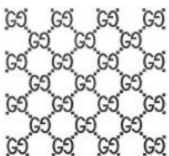

4. Gucci is engaged in the manufacture, promotion, distribution, and sale in interstate commerce, including within this judicial district, of high-quality products under multiple federally registered and common law trademarks, including those identified in Paragraph 5 below.



5. Gucci is the owner of all rights in and to the following trademarks, which are valid and registered on the Principal Register of the United States Patent and Trademark Office (collectively the "Gucci Marks"):

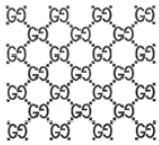



Trademark	Registration Number	Registration Date	Class(es) / Good(s)
GUCCI	0,876,292	September 9, 1969	IC 006 – vacuum bottles, vanity cases sold empty. IC 018 – pocketbooks, wallets, travel and duffel bags, attache cases, toilet cases sold empty and shoe bags. IC 025 – shoes and boots.
	1,106,722	November 21, 1978	IC 025 – neckties, scarves, belts, footwear, shirts, sweaters, coats, suits, and bathing suits.


Trademark	Registration Number	Registration Date	Class(es) / Good(s)
	1,107,311	November 28, 1978	IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, card cases, partly and wholly of leather, key cases, passport cases, cosmetic cases, attache cases, valises, suitcases, duffles.
 (Green Red Green Stripe Design)	1,122,780	July 24, 1979	IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, card cases, attache cases, valises, suitcases, duffles, and key cases.
	1,158,170	June 23, 1981	IC 025 – clothing-namely, neckties, scarves, belts, footwear, shirts, coats, hats, dresses, and bathing suits.
GUCCI	1,168,477	September 8, 1981	IC 025 – neckties, scarves, belts, footwear, shirts, sweaters, coats, suits, dressing gowns, hats, socks, dresses, and bathing suits.
GUCCI	1,200,991	July 13, 1982	IC 014 – bracelets, rings, necklaces, cufflinks, pendants, pins, money clips, keyrings, all made wholly or in part of precious metal.
GUCCI	1,321,864	February 26, 1985	IC 009 – eyeglasses and parts therefor.
GUCCI	1,340,599	June 11, 1985	IC 014 – jewelry-namely, earrings, made wholly or in part of precious metal.
 (Green Red Green Stripe Design)	1,483,526	April 5, 1988	IC 025 – footwear.
	3,039,629	January 10, 2006	IC 025 – footwear and belts.

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
	3,039,630	January 10, 2006	IC 018 – wallets, purses, handbags, tote bags, business card cases, credit card cases and key cases, partly or wholly of leather.
	3,039,631	January 10, 2006	IC 009 – eyeglass frames and sunglasses.
	3,072,547	March 28, 2006	IC 025 – neckties, scarves, belts, footwear and gloves.
	3,072,549	March 28, 2006	IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, business card cases, credit card cases, partly and wholly of leather, key cases, cosmetic cases sold empty, briefcases, attaché cases, valises, suitcases and duffles.
	3,378,754	February 5, 2008	IC 016 –agendas, notebooks.
	3,378,755	February 5, 2008	IC 014 – jewelry and watches. IC 016 – agendas and notebooks. IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, business card cases, credit card cases, partly and wholly of leather, key cases, cosmetic cases sold empty, briefcases, attaché cases, valises, suitcases and duffles. IC 025 – scarves, belts, footwear, shirts, sweaters, coats, suits.

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
	3,470,140	July 22, 2008	<p>IC 006 – metal key rings.</p> <p>IC 014 – jewelry, namely, earrings, pendants, rings, necklaces and watches; key rings of precious metal.</p> <p>IC 025 – apparel, namely, neckties, scarves, shirts, sweaters, coats, hats, dresses, bathing suits, and gloves.</p>
	4,220,947	October 9, 2012	<p>IC 014 – jewelry.</p> <p>IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, business card cases, credit card cases partly and wholly of leather, key cases, cosmetic cases sold empty, briefcases, attaché cases, valises, suitcases and duffel bags.</p> <p>IC 025 – neckties, scarves, belts, footwear and gloves.</p>
	4,229,081	October 23, 2012	<p>IC 014 – jewelry.</p> <p>IC 018 – wallets, purses, handbags, shoulder bags, clutch bags, tote bags, business card cases, credit card cases partly and wholly of leather, key cases, cosmetic cases sold empty, briefcases, attache cases, valises, suitcases and duffel bags.</p> <p>IC 025 – neckties, scarves, belts, footwear and gloves.</p>
 (Green Red Green Stripe Design)	4,379,039	August 6, 2013	<p>IC 025 – shorts, pants, jeans, leggings, t-shirts, polo shirts, shirts, sweaters, sweatshirts, dresses, skirts, swimwear, one piece garments for infants and toddlers, cloth bibs, scarves, ties, hats, gloves, belts.</p>

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
GUCCI	4,555,576	June 24, 2014	IC 014 – jewelry.
GUCCI	4,563,098	July 8, 2014	IC 009 – protective covers and cases for mobile electronic communication devices and computers; computer application software for all mobile devices, namely, software for providing information in the field of fashion, the arts and lifestyle.
GUCCI	4,563,132	July 8, 2014	IC 018 – handbags, shoulder bags, clutch bags, tote bags, briefcases, business card cases, credit card cases, backpacks, key cases, passport cases, cosmetic cases sold empty, valises, suitcases, luggage, all the foregoing being made in whole or in part of leather.
 (Blue Red Blue Stripe Design)	4,563,151	July 8, 2014	IC 018 – gym bags, wallets
 (Green Red Green Stripe Design)	4,567,112	July 15, 2014	IC 009 – eyeglasses and sunglasses; protective covers and cases for mobile electronic communication devices and computers; cell phone straps; computer carrying cases. IC 014 – jewelry and key rings of precious metal. IC 018 – cosmetic cases sold empty, luggage, duffle bags.

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
	4,583,258	August 12, 2014	<p>IC 009 – protective covers and cases for mobile electronic communications devices and computers; computer cases made of leather.</p> <p>IC 014 – watches.</p> <p>IC 018 – backpacks, general purpose trolley bags; baby bags, namely, bags for carrying babies' accessories.</p> <p>IC 025 – clothing, namely, shirts and jackets.</p>
	5,073,022	November 1, 2016	<p>IC 018 – handbags and wallets.</p> <p>IC 025 – belts and footwear.</p>
	5,279,452	September 5, 2017	<p>IC 014 – watches.</p> <p>IC 018 – handbags, shoulder bags, tote bag and wallets.</p> <p>IC 025 – clothing, namely, scarves, neckties and footwear.</p>
 (Blue Red Blue Stripe Design)	5,688,492	March 5, 2019	<p>IC 025 – clothing, namely, sweaters, shirts, tops, jackets, coats, skirts, pants, jeans, shorts, dresses, belts and hats.</p>

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
	5,921,104	November 26, 2019	<p>IC 009 – cases and covers for mobile phones.</p> <p>IC 018 – handbags; shoulder bags; messenger bags; tote bags; clutch bags; backpacks; duffle bags; wallets; business card cases; leather credit card cases and holders; pouches of leather.</p> <p>IC 025 – clothing, namely, tops as clothing, scarves, footwear, headwear; children's and infants' cloth bibs.</p>
<p>GUCCI</p>	6,073,427	June 9, 2020	<p>IC 003 – fragrances, incense, cosmetics, nail polish.</p> <p>IC 004 – candles.</p> <p>IC 009 – sunglasses, eyeglasses, cases for sunglasses, cases for eyeglasses, mobile phone cases, cases for computers, cases for tablet computers, computer application software for all mobile devices, namely, downloadable software for providing information in the field of fashion, the arts and lifestyle.</p> <p>IC 014 – jewelry, watches, key rings, cuff links, tie bars.</p> <p>IC 018 – pocketbooks, handbags, shoulder bags, clutches, wristlet bags, coin purses, wallets, credit card cases, business card cases, tote bags, backpacks, diaper bags, cosmetic bags sold empty, luggage.</p> <p>IC 020 – throw pillows, cushions, chairs, armchairs, folding floor screens and tables.</p> <p>IC 021 – incense burners, mugs, cups,</p>

Trademark	Registration Number	Registration Date	Class(es) / Good(s)
			<p>trays for household purposes, porcelain pots and vases, dishes, sugar bowls, creamer pitchers, chargers being dinnerware, non-electric coffee pots, non-electric tea pots.</p> <p>IC 025 – tops as clothing, bottoms as clothing, coats, jackets, suits, dresses, jumpsuits, bathing suits, scarves, ties as clothing, belts, gloves, headwear, footwear, tights, socks, stockings.</p> <p>IC 027 – wallpaper.</p> <p>IC 035 – retail store services for clothing, footwear, fashion accessories, jewelry, watches, handbags, sunglasses, fragrances, home furnishings and accessories; online retail store services for clothing, footwear, fashion accessories, jewelry, watches, handbags, sunglasses, fragrances, home furnishings and accessories.</p> <p>IC 041 – providing entertainment news and information in the fields of fine art, film, music, theater, and dance through an Internet website portal and social media sites entertainment services, namely, organizing sporting and cultural events.</p> <p>IC 045 – providing news and information in the fields of fashion and personal lifestyles through an Internet website.</p>

The Gucci Marks are used in connection with the manufacture and distribution of high-quality goods in the categories identified above. True and correct copies of the Federal Registrations for the Gucci Marks listed above are attached to the Complaint as Composite Exhibit “1.”

6. Gucci, its authorized licensees, and an affiliated company, are the exclusive authorized distributors in the United States of a wide variety of goods bearing the Gucci Marks. Genuine Gucci products are marketed and sold at Gucci's boutiques throughout the United States at high quality, prestigious department stores, and via the Internet. During the time that Gucci has sold its products in interstate commerce under the Gucci Marks, Gucci has expended substantial resources developing, advertising and otherwise promoting the Gucci Marks.

7. As a result of the foregoing, the Gucci Marks have acquired fame in the consumer market for a wide variety of high-quality goods. The Gucci Marks have come to symbolize the enormous goodwill of Gucci's business throughout the United States and the world. The Gucci Marks have never been abandoned. Gucci actively polices and enforces its trademark rights.

8. The Gucci Marks are vital to Gucci's business, as the trademarks represent a significant value to Gucci's overall business and associated image. Gucci suffers irreparable harm to its goodwill, as well as a direct monetary loss, any time any third parties, including Defendants, sell counterfeit and infringing goods bearing identical or substantially similar trademarks.

Investigation of Defendants' Counterfeiting Activities

9. Gucci learned Defendants are promoting, advertising, offering for sale and/or selling various products bearing counterfeit and infringing trademarks that are exact copies of one or more of the Gucci Marks, without authorization, via the Internet based e-commerce stores operating under the seller names identified on Schedule "A" hereto (the "E-commerce Store Names"). The Gucci Marks have never been assigned or licensed to Defendants, and Defendants do not have, nor have they ever had, the right or authority to use the Gucci Marks for any

purpose. Furthermore, the Gucci Marks have never been assigned or licensed to be used in connection with any of the E-commerce Store Names.

10. Gucci retained Invisible Inc, a licensed private investigative firm, to investigate the suspected sales of counterfeit Gucci branded products by Defendants and to obtain the available payment account data for receipt of funds paid to Defendants for the sale of counterfeit Gucci branded products.

11. Invisible Inc accessed the Internet based e-commerce stores operating under each of the E-commerce Store Names and placed an order for the purchase of a product bearing counterfeits of, at least, one of the Gucci Marks at issue in this action from each Defendant. At the conclusion of the process, I received detailed web page captures of the Gucci branded products ordered by Invisible Inc from each Defendant's E-commerce Store Name. (See Declaration of Kathleen Burns in Support of Plaintiff's Application for Temporary Restraining Order ¶ 4 and Composite Exhibit "1" attached thereto.)

12. I conducted a review of the Gucci branded goods ordered by Invisible Inc by reviewing the e-commerce stores operating under each of the E-commerce Store Names or the detailed web page captures thereof, and concluded that the products are non-genuine, unauthorized Gucci branded products. I reached this conclusion through visual inspection of the product images, the pricing of the Gucci branded products listed, which is far below the prices of similar genuine Gucci products, and the observation of certain product and marking characteristics which are not consistent with those found on genuine Gucci products. Moreover, I personally know that Gucci neither conducts business with Defendants or their E-commerce Store Names, nor have the Gucci Marks ever been assigned or licensed to be used by Defendants or the Internet e-commerce stores operating under the E-commerce Store Names.

13. In view of the foregoing, I can confirm the Gucci branded products ordered by Invisible Inc via the Internet based e-commerce stores operating under the E-commerce Store Names are unauthorized copies of genuine Gucci products. Additionally, I can confirm Defendants do not have authorization to use the Gucci Marks or name in connection with any of the E-commerce Store Names.

Harm Caused To Gucci By Defendants' Activities

14. Genuine Gucci branded goods are widely legitimately advertised, promoted, offered for sale, and discussed by Gucci, its authorized distributors and unrelated third parties via the Internet.

15. Visibility on the Internet, particularly via Internet search and social media platforms is important to Gucci's overall marketing and consumer education efforts. Thus, Gucci expends significant monetary and other resources on Internet marketing and consumer education regarding its products, including search engine optimization, search engine marketing, and social media strategies, all of which allow Gucci and its authorized retailers to educate consumers fairly and legitimately about the value associated with the Gucci brand and the goods sold thereunder and the problems associated with the counterfeiting of Gucci's trademarks.

16. Each year, Gucci expends significant monetary resources in connection with trademark enforcement efforts.

17. Each individual counterfeiter's actions, alone, causes Gucci irreparable harm. However, the sheer number of counterfeit e-commerce store operators acts as a force multiplier of those individual harms and creates a massive single reputational harm to Gucci. Gucci faces significant economic and logistical challenges in enforcing its trademark rights against each individual online store. Single defendant enforcement in the face of the overwhelming

infringement points of sale made possible by the unregulated and anonymous nature of the Internet is wholly ineffective and does not remedy the actual harm to Gucci caused by the crushing weight of all of the Defendants' simultaneous counterfeiting.

18. Throughout the investigation, Gucci has repeatedly found that the anonymity and mass reach afforded by the Internet serves to create nearly impenetrable obstacles in identifying the full extent and scope of targeted counterfeiting operations. Online counterfeiters such as those in this case typically use false or concealed identifying information in their e-commerce store registrations and on their e-commerce stores themselves, false or concealed Internet Protocol ("IP") addresses to conceal their true location, and inaccurate or unrelated origination information for logistics and freight forwarding services. Most often, online sellers set up many multiple storefronts which appear unrelated to evade detection or complete closure of their entire operation once they are detected. Plaintiffs such as Gucci have no way of determining those connections prior to enforcement and very little chance of receiving any meaningful discovery to assist in that task post-enforcement. In fact, Gucci can typically only determine the actual relationships between Defendants when they appear through counsel and identify all the stores in a particular group for the purpose of resolution.

19. Additionally, even after detection, online counterfeiters often simply set up shop elsewhere quickly and easily, before Gucci's enforcement efforts, including litigation, are complete. The quick moving nature of online counterfeiting allows Defendants to swiftly set up and dump payment accounts and e-commerce stores, leaving Gucci with no recourse for the damage done in the time that would be taken up by filing individual lawsuits. Without permissive joinder, in the end, Gucci would be left filing large numbers of lawsuits often against the same sellers over and over without ever obtaining any meaningful relief.

20. Gucci regularly sees repeat offenders in unrelated matters or multiple e-commerce stores operated by the same individuals or organizations, creating an elaborate game of “whack-a-mole.” Given the ease with which counterfeiters create e-commerce store templates, those individuals or organizations can quickly and easily use such templates to set up infinite storefronts without the time and investment Gucci puts into developing and marketing its products. Defendants, in cases such as this, simply steal the latest designs, slap together a storefront, and begin competing *en masse* with Gucci on Defendants’ own products across dozens of e-commerce stores.

21. Despite the great difficulty to specifically identify active, concerted relationships between the Defendants herein, Gucci readily sees and suffers from the combined harm caused by the Defendants’ concurrent counterfeiting activities. Successfully addressing the common harm caused by the Defendants necessitates Gucci grouping concurrently acting Defendants together to obtain any reasonable relief and prevent the drowning out of Gucci’s legitimate online product information and sales.

22. By benefitting from advertising and market targeting strategies based upon an unlawful use of the Gucci Marks online, Defendants are jointly obliterating the otherwise open and available marketplace space in which Gucci has the right to fairly market its goods and associated message. Specifically, Defendants use unauthorized counterfeits of one or more of Gucci’s trademarks to make their e-commerce stores appear more relevant and attractive to consumers searching for Gucci’s goods and information online. Such concurrent wrongful use of Gucci’s trademarks directly impairs Gucci’s ability to compete for visibility on the World Wide Web, including within search engine results space and across social media platforms.

23. The combined force of Defendants' unlawful actions is contributing to the creation and maintenance of an illegal marketplace operating in parallel to the legitimate marketplace for Gucci's genuine goods. Defendants are causing individual, concurrent and indivisible harm to Gucci and the consuming public by (i) depriving Gucci of its right to fairly compete for space online and within search engine results and reducing the visibility of Gucci's genuine goods on the World Wide Web, (ii) causing an overall degradation of the value of the goodwill associated with the Gucci Marks by viewing inferior products in either the pre or post sale setting, and/or (iii) increasing Gucci's overall cost to market its goods and educate consumers about the brands via the Internet.

24. As a result of the availability of the non-genuine Gucci branded goods being offered for sale by Defendants, Gucci is highly likely to experience irreparable damage to its reputation among consumers absent the entry of an appropriate injunction.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct. Executed: 2023-05-25, at New York, New York.

Sydney Kipen
Sydney Kipen

SCHEDULE “A”
DEFENDANTS BY NUMBER AND E-COMMERCE STORE NAME

Def. No.	Defendant / E-commerce Store Name
1	guccieyewear-fr.com
2	alishirts.com a/k/a alishirts.shop
3	borseluxe.com
4	brandoff-store.com
5	braytime.com
5	connder.com
5	garexvvr.com
5	slivvie.com
6	chandeco.com
7	COCOSneakers.to
7	mineme_canico
8	dengyun778 a/k/a Luxury1688 a/k/a Luxury1234
9	discreetcouture.com
10	dreamluxuryshop.com
11	evelyngifts.com
12	evoss.shop
13	factorylux.shop
14	fashionprint.top
15	fdeew.shop
15	rotuer.online
16	foumin.shop
17	gocacoka.com
17	yespersn.com
18	hightopcustom.com
19	insunglass.com
20	jacquemusuk.shop
20	senmonten.shop
21	jacquemusus.shop
22	kananasu.com
23	kelvingift.com
24	kickside.com.br
25	kingofbag.com
25	strangetrend.shop
26	kingshooz.com
27	luckyluxshop.com
27	topluxshoes.cn
27	topluxshoes.com
27	topluxshop.com
28	luxuriousgoods.shop
28	rorekkusujp.shop
29	luxury goods aka ygshoes188.com

Def. No.	Defendant / E-commerce Store Name
30	luxury-bags-shoes a/k/a Beatrice
31	luxurydiscount1.com
32	lvgucci188.com a/k/a weinifuwu14
33	mousuni.shop
34	ohhhcasetie.com
35	perfectkickznews.ru
36	repgod.ru
37	sgvipsbags.com a/k/a bags.ygshoes188
38	shop.xieehop.ga
39	sneakerhomie.su
40	tycloset.com
41	usbestyle.com
42	vvs.lyc a/k/a ZY shoes
43	wemadecases.com
44	womenbags.nl
45	xirance.top
46	yyaaho.com